

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CELZO LUIZ DA SILVA,)	
Petitioner)	
)	
V.)	CIVIL ACTION FILE No.
)	1:25-cv-10735
KRISTI NOEM, as Secretary of the Department of)	
Homeland Security; CALEB VITELLO, Acting)	
Director of the U.S. Immigration & Customs)	
Enforcement, TODD M. LYONS, Director of the)	
U.S. Immigration & Customs Enforcement for the)	
Boston Field Office,)	
Respondents)	

PETITION FOR WRIT OF HABEAS CORPUS

NOW comes Celso Luiz Da Silva, the Petitioner in the above-captioned matter, and hereby states as follows:

1. This action is brought against the Respondents to compel the transfer of the Petitioner, to the custody of the Commonwealth of Massachusetts in compliance with an order of revocation of release on personal recognizance, and order of detention on bail by the Lowell District Court, Docket No. 2511 CR 0416, or in the alternative to transport him to all his hearings in the criminal proceeding pending before the Lowell District Court.

PARTIES

2. Petitioner is an individual who resides in Lowell, MA, and who was taken into custody at his home in Lowell, by the Department of Homeland Security, and who has been detained at various locations, by the Respondents.
3. Respondent, Kristi Noem, is the Secretary of the Department of Homeland Security, and this action is brought against her in her official capacity. She is generally charged with enforcement of the Immigration and Nationality Act, and is further authorized to delegate such powers and authority to subordinate employees of the Department of Homeland Security. 8 USC §1103(a). The U.S. Immigration and Custom Enforcement is an agency within the Department of Homeland Security to whom the Secretary of the Department of Homeland Security's authority has in part been delegated, and is subject to the Secretary of the Department of Homeland Security's supervision.
4. Respondent, Caleb Vitello, is the Acting Director of the U.S. Immigration and Custom Enforcement (ICE) and an official generally charged with supervisory authority over all operations of the division with certain specific exceptions not relevant here. 8 CFR

§1103.1(g)(2)(ii)(B).

5. Respondent, Todd M. Lyons, Field Office Director, U.S. Immigration and Custom Enforcement, is an official of U.S. Immigration and Custom Enforcement (ICE) generally charged with authority over operations of its within his District, with certain specific exceptions not relevant here. 8 CFR §1103.1(g)(2)(ii)(B).

JURISDICTION

6. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.* and is proper under 28 USC § 2241, 8 U.S.C. § 1226, and the All Writs Act, 28 U.S.C. § 1651 and relief is requested pursuant to said statutes.

VENUE

7. Venue is proper in this court, pursuant to 28 USC §1391(e), in that this is an action against officers and agencies of the United States in their official capacities, brought in the District where a Respondent is located and performs their official duties, where the Petitioner resides, where the Immigration and Customs Enforcement Boston Field Office directly controls the detention of the Petitioner and where a substantial part of the events or omissions giving rise to the claims occurred, and no real property is involved in this action. 28 U.S.C. § 1391(e).

EXHAUSTION OF REMEDIES

8. The Petitioner has exhausted his administrative remedies. The Petitioner filed a request for the Lowell District Court to issue a Writ of Habeas Corpus to the Department of Homeland Security facility where he was detained, prior to his hearing, and the Respondents failed to comply with it. There are no other alternatives for timely relief.

CAUSE OF ACTION

9. The Petitioner has been in Removal Proceeding before the Immigration Court since 2005 and is currently scheduled for a Master Calendar Hearing before the Immigration Court on April 8, 2025. (See attached Exhibit A)
10. On February 3, 2025, the Petitioner was charged in the Lowell District Court with Assault and Battery on a Police Officer and Resisting Arrest, Docket No. 2511 CR 0416, and after his arraignment he was released on his own recognizance. (See attached Exhibit B)
11. On February 24, 2025, the Petitioner was taken into by ICE officers from the Immigration and Customs Enforcement Boston Field Office, and he was initially detained at Burlington, MA.
12. The Petitioner was subsequently transferred to the Donald W. Wyatt Detention Center in

Central Falls, RI.

13. On March 14, 2025, the Lowell District Court issued a Habeas Corpus Order to the Donald W. Wyatt Detention Center, for the Petitioner to be transported to the court for a hearing in his criminal case on March 19, 2025, but the Respondents failed to comply with the order. (See attached Exhibit C)
14. On March 19, 2025, the Lowell District Court issued an order revoking the Petitioner's release on personal recognizance and holding the Petitioner on bail. (See attached Exhibit D)
15. After March 19, 2025, the Petitioner was transferred to another facility by the Respondents.
16. On April 24, 2025, the Lowell District Court will hold a pretrial hearing in connection with the Petitioner's pending criminal case, at which the Petitioner has a constitutional right to appear. (See attached Exhibit B)
17. The criminal charges pending against the Petitioner at the Lowell District Court have a substantial impact on his ability to address his immigration status, his liberty, and his ability to remain in the U.S. providing for his two U.S. Citizen children, and the Respondents must transport him to the court in order to defend himself, which is his constitutional right.
18. The Petitioner's continued detention, without providing him the ability to appear the court for his criminal case, is not permitted by law and is a direct violation of his civil and constitutional rights.

PRAYER FOR RELIEF

19. WHEREFORE, in view of the arguments and authority noted herein, the Petitioner respectfully prays that the Court enter an order:
 - (1) Assume jurisdiction over this matter;
 - (2) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;
 - (3) Declare that Petitioner's detention violates the Due Process Clause of the Firth Amendment;
 - (4) Issue a Writ of Habeas Corpus ordering the Respondents to release the Petitioner immediately to the custody of the Commonwealth of Massachusetts at the Middlesex County House of Corrections, 269 Treble Cove Road, Billerica, MA 01862 and/or to transport the Petitioner to the Lowell District Court on April 24, 2025, and all future hearings, forthwith;
 - (5) Award Petitioner reasonable attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and
 - (6) Grant any further relief at law and in equity as justice may require.

Respectfully submitted,

/s/ Desmond P. FitzGerald
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